

EXPLANATORY MEMORANDUM TO
THE TAX CREDITS (MISCELLANEOUS AMENDMENTS) REGULATIONS
2011

2011 No. 721

1. This explanatory memorandum has been prepared by HM Revenue and Customs (HMRC) and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 The purpose of this statutory instrument is to make technical and consequential changes to The Tax Credits (Definition and Calculation of Income) Regulations 2002 (S.I. 2002/2006) (“the Income Regulations”), The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005) (“the Entitlement Regulations”) and The Tax Credits (Provision of Information) (Functions Relating to Health) Regulations 2003 (S.I. 2003/731) (“the Health Regulations”).

2.2 This instrument encompasses various miscellaneous amendments to the Tax Credits Regulations, which are either mainly of a consequential or technical nature or improve the operation of the tax credits system for the benefit of the customer.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

4. **Legislative Context**

4.1 This instrument amends the Regulations described in paragraph 2.1, in exercise of powers afforded to the Treasury and to the Commissioners for Her Majesty’s Revenue and Customs (“the Commissioners”) by the Tax Credits Act 2002 (c. 21). The powers afforded by sections 7(8) and (9), 12(3) and (4) are exercisable by the Treasury. The powers afforded by paragraph 9(2) of Schedule 5 are exercisable by the Commissioners.

5. **Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

6. **European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

Amendments to the Income Regulations

7.1 These Regulations make changes to reflect the current legislation.

7.2 A new ‘Shared Lives Care Relief’ has been introduced under Schedule 1 to the Finance (No.3) Act 2010. Shared Lives Care Relief extends the scope of Foster Care Relief to other groups of carers, such as adult placement carers and kinship carers. This change affects those Shared Lives Carers who provide accommodation, care and support to up to three individuals who have been placed with them under a local authority Shared Lives Placement Scheme and who share their family home and family life with the individuals placed with them. This change to the Income Regulations widens their scope to include the new Shared Lives Care Relief.

Amendments to the Entitlement Regulations

7.3 Regulation 14(2) of the Entitlement Regulations sets out the meaning of qualifying child care for the purposes of entitlement to working tax credit. This is usually formal child care where the provider is registered or approved in accordance with the legislation for the regulation and registration of child care in England, Scotland, Northern Ireland and Wales.

7.4 These amendments clarify the policy intention in relation to qualifying child care provided by a foster carer/foster parent, whilst reflecting the child care registration requirements in the devolved administrations of Scotland, Northern Ireland and Wales.

7.5 The amendments make it clear that, in the case of Northern Ireland and Wales, eligible child care should include child care provided by a foster parent in circumstances where, due to the age of the child, that care is not required to be formally registered or approved, as it falls outside the meaning of childminding or day care as prescribed in the legislation of these countries.

7.6 The amendments also remove the foster parent provision in Scotland, which is superfluous to requirements. This is because foster carers providing childminding or day care to a child under the age of 18, who is not their foster child, are subject to the same registration requirement as any other child care providers in Scotland, and the eligibility condition is already provided for in regulation 14(2)(b)(i).

7.7 There are also some small technical adjustments to Regulations 14(2)(f)(i) and 14(2)(f)(ii), to reflect the fact that Part 10A of the Children Act 1989 has been replaced with Part 2 of the Children and Families (Wales) Measure 2010 from 1 April 2011.

Amendment to the Health Regulations

7.8 These minor technical adjustments are required to bring these Regulations in to line with changes made to the milk vouchers welfare scheme by the Department of Health in 2005.

- ***Consolidation***

7.9 HMRC publishes consolidated Regulations on their web site. These will be made available as soon as possible after the Statutory Instrument is published.

8. Consultation outcome

8.1 There is no statutory requirement to consult on these Regulations. However, the Social Security Advisory Committee (SSAC) has considered these regulatory changes under its Memorandum of Understanding with HMRC.

9. Guidance

9.1 The provisions of these amending Regulations will be reflected in the Tax Credits Technical Manual. This is available on the HMRC website at www.hmrc.gov/taxcredits/manuals/tctmanual/index.htm.

10. Impact

10.1 An Impact Assessment has not been produced for this instrument as it has a negligible impact on business, charities or voluntary bodies.

10.2 The changes to Tax Credits pursuant to these Regulations will have a negligible impact on the Exchequer.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 These changes are mainly consequential and technical and do not require further review.

13. Contact

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